

An Overview of California Groundwater Law & Management

2011 Water Quality Coordinating Committee
(WQCC) Meeting

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Groundwater as a Percentage of Overall Water Consumption in California

- 30 % in normal years
- 40+% in drought years

The Unacceptability of California's Groundwater Status Quo (the "Unmanaged Commons"):

- Groundwater contamination
- Groundwater overdraft
- Groundwater subsidence
- Saltwater intrusion

The Fundamental Disconnect Between Groundwater Science & Law in California



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Groundwater regulation in the Western U.S. California: the Great Exception



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3 Types of Water Under California Law:

- Surface water;
- “Subterranean streams”; and
- Percolating groundwater

No Comprehensive California System of:

- Monitoring groundwater pumping; or
- Regulating/limiting groundwater pumping

What Authority Do CA Regulators Have Over:

- Groundwater monitoring?
- Groundwater extraction and use?

Authority Over Groundwater Monitoring:

- SBX7 6 (Steinberg 2009)
- A very modest initial step

Cf. Local Authority Over Groundwater in California

- **Not** preempted by state law
 - *Baldwin v. County of Tehama* (1994)
- Only some cities/counties have adopted
- Most local ordinances focus on efforts to discourage/preclude groundwater export to “outside” users/jurisdictions
- Northern v. Southern California approaches

California State Authority Over Groundwater Extraction & Use

- California Constitution, Art. X, section 2
- Water Code §§ 102-105
- Water Code §§ 100, 275
- The Public Trust Doctrine

Requiring More of CA's Groundwater Basins in the 21st Century:

- Replacing snowpack as needed storage (in an era of climate change)
- Increased need to use groundwater basins as CA's water “insurance policy”/“ bank account”

The Role of the State and Regional Boards: Reactive or Proactive?

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A Modest, 2-Part Legislative Proposal for Groundwater Reform in California

- Comprehensive, consistent reporting of amounts of groundwater extraction (& groundwater basin levels)
- Local agency regulation, subject to statewide standards set by SWRCB
 - The Orange Country Water District model

Question & Answer Period

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